

"Quechee Analysis."

The first part of the Quechee Analysis is to determine whether or not the project is aesthetically adverse. This is done by describing the surroundings, then examining how the project "fits" into the surroundings. Color, size, viewing area, materials, and open space are some of the factors to be considered. If the project's visual impact is not in any way adverse, then the analysis is finished.

The second part of the Quechee Analysis is required if the project will have an adverse aesthetic impact. The second part helps to determine whether or not the adverse impact is undue. The project is not undue if it does not: 1) violate a clear, written community standard; 2) offend the sensibilities of the commission or board; or 3) fail to take reasonable mitigating steps. Mitigation may include (but is not limited to) visual screening, changes to dishes and other equipment, co-location of facilities, effective placement of site. If the project is not unduly adverse, the commission will be able to find it meets the requirements of this criterion. [In Re Quechee Lakes Corp., No. 3W0411-EB and No. 3W0439-EB (Nov.4, 1985)]

SUGGESTIONS FOR MITIGATION UNDER CRITERION 8 - AESTHETICS

To minimize impacts and therefore improve your chances for expedited review as a "minor" application under Environmental Board Rule 51, please consider the following siting and design features:

- Utilizing existing support structures and other non-tower structures to mount communication equipment consistent with applicable FCC radio frequency radiation (RFR) standards in effect.
- Locating tower below summit or ridgeline.
- Minimize tower height to no more than 20' above surrounding tree crown.
- Utility service should be via existing cleared right-of-way. If new service is necessary, it should be located underground or on the ground. As a last resort, new above ground poles or clearing should follow the access road. Future utility line hook-ons must be reviewed.
- Incorporate existing access ways where possible; if new access is proposed, design it with sufficient waterbars, culverts, and rock-lined ditches; minimize width and avoid visual dissection of cleared fields and lots.
- Provide security fencing, but preserve as much of the native tree and scrub cover as possible.
- Demonstrate efforts to co-locate on existing sites and/or structures.
- Siting broadcast facilities below 2,500 feet and at locations that do not impact historic sites or comprise prime agricultural soils.

8 (A) NECESSARY WILDLIFE HABITAT AND ENDANGERED SPECIES

- Does the tract contain a deer wintering yard, bear habitat, or other necessary wildlife habitat?
- Are there endangered species living on or using the tract, or that could be affected by the project?
- If there is a road or power line to the project through wildlife habitat, are there gates, user restrictions, and other measures to protect the habitat? Can service be limited during winter months or other crucial times?
- Will the habitat be managed?
- You may wish to get advance comments from a wildlife biologist if it looks like there might be critical habitat or endangered species.

9 (A) IMPACT OF GROWTH

- Is the project a precursor to growth? For example, if a new power line is built, will it spur additional construction?

9 (B & C) AGRICULTURAL AND FORESTRY SOILS

- How many acres of primary agricultural soil are on the tract?
- How many acres of secondary agricultural or forest soils are on the tract?
- Of the above, how many acres will be affected by the project?
- Describe current and proposed forestry and agricultural soil management activities for the tract.
- Describe mitigation if proposed to prevent significant reduction of agricultural or forestry potential.

9 (D & E) EARTH RESOURCES AND EXTRACTION

- Generally not applicable.

9 (F) ENERGY CONSERVATION

- Discuss energy efficiency of buildings and equipment, including heat, insulation, motors, and power supplies.

9 (G) PRIVATE UTILITIES

- Describe who will construct and maintain power lines and roads to the project, if any.
- If private power line, submit exclusivity agreement (call coordinator).

9 (H) COSTS OF SCATTERED DEVELOPMENT

- **Generally not applicable.**

9 (J) PUBLIC UTILITIES

- **Does the project require government or public utility services such as electrical power?**
- **Can these services reasonably be provided?**

9 (K) PUBLIC INVESTMENTS

- **Adjacent public lands, highways, and bodies of water represent public investments. These and all other adjacent public investments should be listed in the Schedule B under this criterion.**
- **The commission must be able to find that the project will not unreasonably interfere with public use, investment, or enjoyment of adjacent public services, lands, and facilities.**

9 (L) RURAL GROWTH AREAS

- **Generally not applicable.**

10 TOWN AND REGIONAL PLANS

- **What town plans apply to the review of this project?**
- **What regional plans apply to the review of this project?**
- **What zoning ordinances, if any, apply to the project?**
- **Do the applicable plans address communication facilities? Co-location? Do they address visual sensitivity?**
- **Quote applicable sections of the plans and zoning ordinances and describe how the project meets or complies with them.**
- **Has the project gone through local or regional reviews?**
- **Do you have comments from local selectboard, town or regional commissions?**

**ACT 250
APPLICATION FOR
COMMUNICATIONS
FACILITY**

file number _____ date received _____
[] complete [] incomplete init. _____
date completed _____
coordinator or clerk signature: 10 V.S.A. Chapter 151

.....OFFICE USE ONLY.....

Pursuant to 10 V.S.A. § 6001 et seq (Act 250), as amended, application is hereby made for construction of a communications facility.

NAMES:

1. Applicant(s) Name: _____
Address: _____
Phone: _____

Legal form: [] individual [] partnership (attach list of partners)
[] corporation: date formed _____ place formed _____
date reg. in Vt. _____ [] municipal gov't [] state gov't
Legal interest in land: [] ownership in fee simple [] lease agreement
[] contract to purchase [] other: _____

2. Landowner(s) Name: _____
Address: _____
Phone: _____

3. Leasehold Rights Owner Name: _____
Address: _____
Phone: _____

4. Deeded Rights of Way for Project Access:
Landowner(s) Names: _____
Address: _____
Phone: _____

5. Contact Person: _____
Address: _____
Phone: _____

PROJECT DESCRIPTION:

6. _____

7. Checklist of required documentation to be submitted with this application:

- [] Schedule A (cost information)
[] Project site plan or sketch.
[] Schedule B (see guide).

- ☐ Current list of names and addresses of all adjoining property owners whose fee simple ownership of property shares a property boundary with the project tract(s) or whose lands are adjacent and separated only by a river, stream, or public highway. Include names and addresses of all landowners whose lands are subject to rights of way for project access (Schedule E).
- ☐ Certificate of Service or Schedule F (statutory parties).
- ☐ Broadcast Coverage Objective, including a radio signal propagation map showing the area which the applicant proposes to cover at the tower height proposed.
- ☐ An elevation drawing showing the height and scaled appearance of any tower, antenna(s), guy wires, or buildings proposed to be constructed or installed.
- ☐ A copy of any applicable construction permits or licenses issued by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- ☐ A copy of the currently adopted Town Plan and applicable Zoning Ordinances (if any).

LAND:

8. Total acres owned or controlled by applicant and landowner at project site_____.
9. Deed(s):
 (a) Project Site Grantee's Name as recorded _____
 Recorded in book(s) _____ page(s) _____
 on date(s) _____
 Town _____ County _____
- (b) Deeded Rights-of-Way Name as Recorded _____
 Recorded in book(s) _____ page(s) _____
 on date(s) _____
 Town _____ County _____

SIGNATURES:

10. I hereby swear that the information provided above or attached to this application is true and accurate to the best of my knowledge.

Signature of applicant(s):_____ Date:_____

11. I hereby authorize the processing of this application for the above project on land(s) that I own control, or have significant property interest in.

Signature of landowner(s):_____ Date:_____

DISTRIBUTION:

12. Submit the original and four copies to the District Environmental Commission.
13. Submit additional copies to the Municipality, Municipal Planning Commission, Regional Planning Commission, and to any adjoining municipalities and planning commissions.

BROADCAST AND COMMUNICATION TOWERS

STATE PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
4C0718-2A	CHITTENDEN COUNTY CIRCUMFERENTIAL HWY.	REPLACE TRANSMISSION TOWER W/ 2 NEW TOWERS	ESSEX	PERMIT
4C0901	KORWAN, LANE & CANNATA	ADD 4 - 13' WHIP ANTENNAS	CHARLOTTE	PERMIT
5L0759-3	U.S. MARSHALLS SERVICE	INSTALL RADIO REPEATER AND ANTENNA	STOWE	PERMIT
5L0759-4	NORTHEAST PAGING	INSTALL 1 ANTENNA AND 1 YAGI ANTENNA ON MT. MANSFIELD	STOWE	PERMIT
7C0467-4	EHV WEIDMANN	ERECT NEW BUILDING AND TOWER	BURKE	PERMIT

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
1R0391-5	LAWRENCE WHITE CONSTRUCTION	ERECT RADIO TOWER & 30 X 90' STEEL BUILDING	DANBY	PERMIT
1R0542-4	H & D COMMUNICATIONS & VT. DEPT. FOREST, PARKS & RECREATION	INSTALL 12' RECEIVING ANTENNA	KILLINGTON	PERMIT
1R0542-5	NORTHEAST FM REPEATER ASSOCIATION	INSTALL 18', 12' AND 2' CORNER ANTENNAS	SHERBURNE	PERMIT
1R0542-6	KILLINGTON BROADCASTING LTD.	INSTALL 6" DIAMETER ANTENNA SUPPORT POLE	SHERBURNE	PERMIT
1R0542-6A	KILLINGTON BROADCASTING LTD.	SUBSTITUTE A 4 PANEL ANTENNA	SHERBURNE	PERMIT
1R0542-7	JEWEL RADIO, INC.	INSTALL 12' FIBERGLASS WHIP ANTENNA TO EXISTING TOWER	SHERBURNE	PERMIT
1R0542-8	KILLINGTON, LTD.	REPLACE EXISTING ANTENNA W/ OMNI- DIRECTIONAL	SHERBURNE	PERMIT
1R0542-9	KILLINGTON BROADCASTING LTD.	INCREASE WATTS FROM .1 TO .4 M. WATTS	SHERBURNE	PERMIT
1R0685	PRESCOTT	INSTALL 100' TRANSMITTER TOWER AND 2 SATELLITE DISHES	RUTLAND	PERMIT
1R0728	ROBERT VANDERMINDEN	ERECT 20' ANTENNA AND 80' STEEL TOWER	WELLS	PERMIT
1R0753	JPS COMMUNICATIONS, INC.	ERECT 12 X 12' BLDG. W/ 100' WHIP ANTENNA	WEST RUTLAND	PENDING
1R0766	ATLANTIC CELLULAR	CONSTRUCT 120' TOWER, 12 X 20' BLDG. IN A 35 X 51' COMPOUND	WEST RUTLAND	DENIED

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
1R0777	VT. RSA LTD. PART.	CONSTRUCT 32 X 28.5' BLDG. WITH 2 ANTENNAS ON SUMMIT OF PICO	SHERBURNE	PERMIT
1R0780	MIRKWOOD GROUP	COX MOUNTAIN FM RADIO TOWER AND BUILDING	PITTSFORD	DEC. DENIAL APPEALED
2S0339-10	YANKEE MICROWAVE, INC.	ATTACH 2 - 4-BEDROOM MICROWAVE DISHES TO EXISTING ETV TOWER	WINDSOR	PERMIT
2S0339-8	VT. INDEPENDENT CELLULAR	INSTALL 4 DISH ANTENNAS AND 2 WHIP ANTENNAS	WINDSOR	PERMIT
2S0351-26	U.S. CELLULAR	CONSTRUCTION COMMUNICATION FACILITY	LUDLOW	PERMIT
2S0384-10	CONTACT COMMUNICATIONS & WNNE-TV	ATTACH 24' SATELLITE DISH ANTENNA TO WNNE BLDG.	WINDSOR	PERMIT
2S0399-9	ATLANTIC CELLULAR	MOUNT WHIP ANTENNA TO ETV TOWER	WINDSOR	PENDING
2S0691-5	LUDLOW TELEPHONE CO. & OKEMO REALTY	CONSTRUCT 12 X 20' ELECTRONIC EQUIPMENT BUILDING	LUDLOW	PERMIT
2S0987	JPS COMMUNICATIONS, INC.	CONSTRUCT 18 X 18', 1-STORY BLDG., W/ 150' COMMUNICATION TOWER	BALTIMORE & CAVENDISH	PERMIT
2W0795-1	NEW ENGLAND POWER CO.	DEMOLISH EXISTING TOWER & CONSTRUCT NEW TOWER	WILMINGTON	PERMIT
2W0991	WLPL d/b/a BEMIS (GARY SAVOIE)	ERECT COMMUNICATIONS TOWER	ATHENS & ROCKINGHAM	DEC. PERMIT BRD. DENIAL

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
2W1012	U.S. CELLULAR	CONSTRUCT A 120' COMMUNICATION TOWER	WILMINGTON	PERMIT
3R0036-1	ATLANTIC CELLULAR	CONSTRUCT CONCRETE PAD, METAL EQUIPMENT BLDG., & ANTENNA	NEWBURY	PERMIT
3R0036-2	VT. RSA LTD.	CONSTRUCT ADDITION TO EQUIPMENT BLDG. & INCREASE TOWER HEIGHT	NEWBURY	PERMIT
3R0703	STOKES COMMUNICATIONS CORP.	REPLACE 120' COMMUNICATION TOWER W/ 300' TOWER	RANDOLPH	PERMIT
3W0726	ATLANTIC CELLULAR	CONSTRUCT 120' COMMUNICATION TOWER	ROYALTON	PERMIT
3W0738-4	CELLCO PARTNERSHIP	CONSTRUCT 190' COMMUNICATIONS TOWER	SHARON	PENDING
3W0755	LISBON COMMUNICATIONS, INC.	CONSTRUCT 140' BROADCAST TOWER TO EXISTING EQUIPMENT BLDG.	SHARON	PENDING
5L0711-3	HERITAGE MEDIA & WPTZ-TV	INSTALL A 6' DISH ANTENNA FOR ETV	STOWE	PERMIT
5L0711-4	NE WIRELESS & ETV	MOUNT 3 TRANSMITTING ANTENNAS & 1 DISH	STOWE	PERMIT
5L0711-5	NE WIRELESS	INSTALL ANTENNAS ON ETV TOWERS AND CONSTRUCT BLDG.	STOWE	PERMIT
5L0711-6	ATLANTIC CELLULAR	INSTALL 2 MICROWAVE DISHES & 4 PANEL ANTENNA TO ETV TOWERS	PROVIDENCE	PERMIT

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
5L0711-7	LOUIS BUZZI D/B/A NE PAGING	INSTALL 1 - 15' ANTENNA ON EXISTING TOWER	ST. JOHNSBURY	PERMIT
5L0759-2	U.S. DEPARTMENT JUSTICE, DRUG ENFORCEMENT	INSTALL 3' ANTENNA & EQUIPMENT BLDG.	STOWE	PERMIT
5W1166	TRANS-VIDEO, INC.	RELOCATE SATELLITE DISH ANTENNA	NORTHFIELD	PERMIT
5W1166-1	TRANS-VIDEO, INC.	CHANGE LOCATION OF 4 DISH ANTENNAS	NORTHFIELD	PERMIT
6F0475	CLARKS COMMUNICATIONS	REPLACE EXISTING TOWER & INCREASE HEIGHT	ST. ALBANS	PERMIT
6G0436	VT. WIRELESS COOPERATIVE	ERECT TRANSMISSION TOWER AND INSTALL DISH	NORTH HERO	PERMIT
6G0472	ATLANTIC CELLULAR	CONSTRUCT COMMUNICATION TOWER AND EQUIPMENT SHED	SOUTH HERO	PERMIT
6G0481	VT. WIRELESS COOPERATIVE	ERECT SINGLE COMMUNICATIONS TOWER	ALBURG	PERMIT
700004-4	ATLANTIC CELLULAR	ADD 2 MICROWAVE DISHES & 4 WHIP ANTENNAS	SOMERSET	PERMIT
7C0467-5	ATLANTIC CELLULAR	ADD MICROWAVE DISH AND 4 WHIP ANTENNA	PROVIDENCE	PERMIT
7C0467-6	VT. RSA LTD. PART.	INSTALL CELLULAR COMMUNICATIONS TOWER	PROVIDENCE	PERMIT

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
7C0563-5	FEDERAL AVIATION ADMINISTRATION	ERECT 10' AND ' DIAMETER ANTENNA	BURKE	PERMIT
7C0796	JOHN SUKER D/B/A CENTRAL VERMONT COMMUNICATIONS	ERECT 300' HIGH RADIO TOWER, 1500' POWER LINE	ST. JOHNSBURY	PERMIT
7C0814	KIRK FENNOFF	ERECT 100' GALVANIZED TOWER W/ GUY WIRES	DANVILLE	PERMIT
7C0938	PC CELLULAR	ERECT COMMUNICATION TOWER, EQUIPMENT SHED	DANVILLE	PERMIT
7R0464-10	ATLANTIC CELLULAR	INSTALL MICROWAVE DISH & ANTENNA	PROVIDENCE	PENDING
7R0464-11	VT. RSA LTD. PARTNERSHIP	INSTALL TELECOMMUNICATIONS EQUIPMENT	MENANDS	PERMIT
7R0464-6	FEDERAL AVIATION ADMINISTRATION	INSTALL 2 - 6' DIAMETER ANTENNAS	JAY PEAK	PERMIT
7R0464-8	RINKERS COMMUNICATIONS	INSTALL 22 X 5' ANTENNA ON ROOF OF LODGE	JAY	PERMIT
7R0464-9	CITIZENS UTILITIES CO. & JAY PEAK	INSTALL 7 X 28' CONE-COVERED ANTENNA	JAY	PERMIT
7R0842	VT. WIRELESS COOPERATIVE	CONSTRUCT TRANSMISSION TOWER	NEWPORT	PERMIT
8B0324-2	HORIZON CELLULAR TELEPHONE	ATTACH ANTENNAS TO EXISTING FAA TOWER	MANCHESTER	PERMIT

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BROADCAST AND COMMUNICATION TOWERS

COMMERCIAL PROJECTS

PERMIT #	CASE NAME	PROJECT DESCRIPTION	TOWN	ISSUED
8B0410	FIRST CAROLINA CABLE TV	CONSTRUCT 600 SF COMM. BLDG. W/ TRANSMITTER	MANCHESTER	PERMIT
8B0415-1	CVPSC	ERECT 50' FREE-STANDING COMMUNICATION TOWER	MANCHESTER	PERMIT
8B0507	U.S. CELLULAR	ERECT 120' TOWER ATOP PROSPECT MTN. W/ STORAGE BLDG.	WOODFORD	PERMIT
9A0203	VT. WIRELESS COOPERATIVE	APPROVE EXISTING RADIO TOWERS	MONKTON	PERMIT
9A0223	JEFF & LINDA SMITH	CONSTRUCT 150' STRUCTURE TO SUPPORT COMMUNICATION ANTENNA	LEICESTER	PENDING
9A0224	ATLANTIC CELLULAR	CONSTRUCT CELLULAR COMMUNICATIONS FACILITY	ADDISON	PENDING
1R0542-8	KILLINGTON, LTD.	REPLACE EXISTING ANTENNA W/ OMNI-DIRECTIONAL	SHERBURNE	PERMIT

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January 1990 through December 1995:

Permits issued: 58

Denials: 2

Pending: 6

TOTAL: 66

NOTICE OF APPLICATION
ACT 250 MINOR APPLICATION #7C0467-4
10 V.S.A., Chapter 151

1995
ENVIRONMENTAL BOARD

Notice is hereby given that on May 5, 1995 an application was filed by Vermont RSA Limited Partnership, c/o NYNEX Mobile Communications, 46 Broadway, Menands, New York 12204; Vermont ETV, 88 Ethan Allen Avenue, Colchester, Vermont 05446-3129 and State of Vermont, Dept. of Forests, Parks and Recreation, 103 South Main Street, Waterbury, Vermont 05676 to install both a temporary and a permanent cellular communications facility on Burke Mountain consisting of 4 whip-type antennae and 1 panel-type antenna on the existing 100 foot tower along with a temporary equipment enclosure housing the necessary electronic equipment for the cell site. The proposed antennae array will consist of four-13 foot whip antennae mounted vertically on the tower along with a one 4-foot long by 1-foot wide panel antenna also mounted vertically. A temporary equipment cabinet will be housed on the ground in a self-contained, galvanized steel, weather resistant prefabricated enclosure (6 feet 3 inches x 6.25 feet) located in a corner of the existing paved parking area on site and will be protected from vehicles by temporary barriers. The project will not require any water supply or wastewater disposal facilities. The project is located at the summit of Burke Mountain in the Town of Burke, Vermont.

The District Environmental Commission will treat this application under Environmental Board Rule 51 -- Minor Applications. A proposed permit has been prepared for public review and comment. Copies of the application and plans for the project, along with the proposed permit, are available for inspection by the public during regular working hours at the District #7 Environmental Commission Office, 184 Portland Street, St. Johnsbury, Vermont.

No hearing will be convened unless, on or before Thursday, June 8, 1995 a party notifies the Commission of an issue or issues requiring the presentation of evidence at a hearing, or the Commission sets the matter for hearing on its own motion. If a timely hearing request is received, the hearing will be convened on Friday, June 9, 1995 or as soon as possible thereafter.

In the event a hearing is held and you have a disability for which you are going to need accommodation, please notify us by Monday, June 5, 1995.

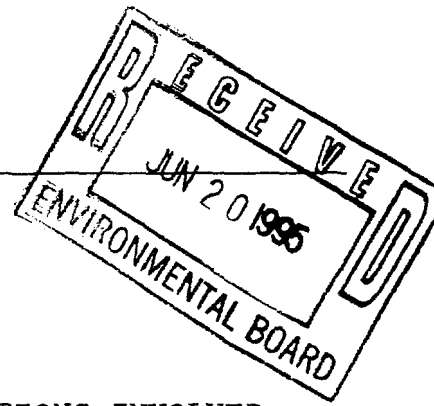
Parties entitled to participate are the municipality, the municipal planning commission, the regional planning commission, state agencies, adjoining property owners, and persons granted party status pursuant to Board Rule 14(B).

Dated at St. Johnsbury, Vermont this 18th day of May, 1995.

BY: Michele Boomhower
Assistant Coordinator District #7
184 Portland Street
St. Johnsbury, VT 05819 Tel. (802)-748-8787



State of Vermont



LAND USE PERMIT

AMENDMENT

CASE	#7C0467-6	<u>LAWS/REGULATIONS INVOLVED</u>
APPLICANTS	Vermont RSA Limited Partnership c/o NYNEX Mobile 46 Broadway Menands, NY 12204 and Vermont ETV 88 Ethan Allen Avenue Colchester, VT 05446-3129 and State of Vermont Dept. of Forests, Parks & Recreation 103 South Main Street Waterbury, VT 05676	10 V.S.A., Chapter 151 (Act 250)

District Environmental Commission #7 hereby issues Land Use Permit Amendment #7C0467-6 pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit amendment applies to the lands identified in Book 19C, Pages 194 & 197 of the land records of Burke, Vermont, as the subject of a deed to the State of Vermont with a lease agreement with Vermont ETV and NYNEX, the "permittees as grantees". This permit amendment specifically authorizes the permittees to install both a temporary and a permanent cellular communications facility on Burke Mountain consisting of 4 whip-type antennae and 1 panel-type antenna on the existing 100 foot tower along with a temporary equipment enclosure housing the necessary electronic equipment for the cell site. The proposed antennae array will consist of four-13 foot whip antennae mounted vertically on the tower along with one 4-foot long by 1-foot wide panel antenna also mounted vertically. A temporary equipment cabinet will be housed on the ground in a self-contained, galvanized steel, weather resistant prefabricated enclosure (6 feet 3 inches x 6.25 feet) located in a corner of the existing paved parking area on site and will be protected from vehicles by temporary barriers. The project will not require any water supply or wastewater disposal facilities. The project is located at the summit of Burke Mountain in the Town of Burke, Vermont.

The permittees, their assigns and successors in interest, are obligated by this permit amendment to complete and maintain the project only as approved by the District Commission in accordance with the following conditions:

1. Except as specifically amended herein, all terms and conditions of Land Use Permit #7C0467 and subsequent amendments remain in full force and effect.
2. The project shall be completed, maintained and operated in accordance with the plans and exhibits on file with the District, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Commission.
3. By acceptance of the conditions of this permit without appeal, the permittees confirm and agree for themselves and all assigns and successors in interest that the conditions of this permit shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the permittees and all assigns and successors in interest.
4. The District Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed in accordance with the terms of the permit.
5. By acceptance of this permit the permittees agree to allow representatives of the State of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
6. Each prospective purchaser of this tract shall be shown a copy of the approved plot plan and the Land Use Permit before any written contract of sale is entered into.
7. No further subdivision of the tract approved herein shall be permitted without the written approval of the District Commission.
8. The panel antenna shall be of a color to blend in with the existing tower infrastructure.
9. No further microwave dishes, antennae, or additional equipment shall be installed on the building exterior prior to review and approval by the District Coordinator or the District Commission under applicable Environmental Board Rules.

10. The District Environmental Commission reserves the right to evaluate and impose reasonable additional conditions necessary to ensure no undue adverse impact with respect to Criteria 1, Air Pollution. The Commission reserves this right for a period of time commencing and expiring with the permit as it relates to radio frequency radiation.
11. Notwithstanding the requirements of Condition #8 the project construction completion date shall be 2 months from the issuance of the permit, but no later than September 15, 1995, unless a request for extension of construction completion date is submitted to the District 7 Coordinator.
12. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced substantial construction in accordance with 10 V.S.A. § 6091(b) (amended June 21, 1994).
13. Pursuant to 10 V.S.A. § 6090(b) (effective June 21, 1994), this permit amendment is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.

Dated at St. Johnsbury, Vermont, this 19th day of June, 1995.

BY

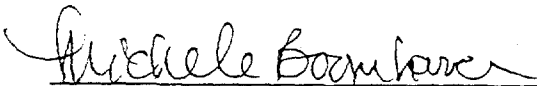


Edward Newell, Chairperson
District Environmental
Commission #7

Other members participating in this
decision:

Bridget Collier

William Johnson

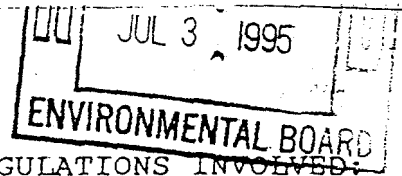


Michele Boomhower
Assistant District Coordinator
District Environmental Commission #7

State of Vermont



LAND USE PERMIT



CASE NO: 2W1012
 APPLICANT: U.S. CELLULAR
 288 ROUTE 101
 BEDFORD, NH 03110

LAWS/REGULATIONS INVOLVED:

10 V.S.A., CHAPTER 151
 (ACT 250)

and
 CLIFFORD C. AND DIANA L. DUNCAN
 P. O. BOX 685, WILMINGTON, VT 05363
 and
 CELLULAR ONE
 3 BALDWIN AVENUE, SO. BURLINGTON, VT 05403

District 2 Environmental Commission hereby issues Land Use Permit #2W1012 pursuant to the authority vested in it in 10 V.S.A., Chapter 151. This permit applies to the lands identified in Book 93, Page 243; Book 71, Page 444; Book 114, Page 271; and Book 149, Page 378, of the land records of Wilmington, Vermont, as the subject of a deed to Clifford C. and Diana L. Duncan and lease agreements with U.S. Cellular and Cellular One, the "permittees" as grantees. This permit specifically authorizes the permittees to construct and operate a 120 foot communications tower, an access road and equipment building. The project is located off Route 9 in the Town of Wilmington.

The permittees, their assigns, and successors in interest, are obligated by this permit to complete and maintain the project only as approved by the District Environmental Commission in accordance with the following conditions:

1. The project shall be completed as set forth in Findings of Fact and Conclusions of Law #2W1012 in accordance with the plans and exhibits stamped "Approved" and on file with the District Environmental Commission, and in accordance with the conditions of this permit. No changes shall be made in the project without the written approval of the District Environmental Commission.
2. By acceptance of this permit the permittees agree to allow representatives of the State of Vermont access, at reasonable times, to the property covered by the permit, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
3. By acceptance of the conditions of this permit without appeal, the permittees confirm and agree for themselves and all assigns and successors in interest that the conditions of this permit shall run with the land and will be binding upon and enforceable against the permittees and all assigns and successors in interest. The granting of less than an undivided whole interest in this project is prohibited without prior approval of the District Environmental Commission.

4. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permittees file an affidavit certifying that the project is being completed in accordance with the terms of the permit.

5. The permit hereby incorporates all of the conditions of the Water Supply and Wastewater Disposal Permit #WW-2-0805 and Deferral of Permit #DE-2-3341 issued by the Department of Environmental Conservation, Agency of Natural Resources in compliance with Vermont State Environmental Protection Rules.

6. The permittees shall implement all recommendations of the District Fisheries Biologist as outlined in Exhibit 23.

7. The permittees will create a turnaround at the access on Route 9 or otherwise ensure there is no backing out of vehicles or snowmobile trailers onto Route 9.

8. The District Environmental Commission reserves the right to evaluate and impose reasonable additional conditions necessary to ensure no undue adverse impact with respect to Criterion 8 Aesthetics. The Commission reserves this right for a period of time commencing and expiring with the permit.

9. Erosion Control: All mulch, hay bales, siltation dams, water bars and other temporary devices shall be installed immediately upon grading and shall be maintained until all permanent vegetation is established on all slopes and disturbed areas.

10. Starting at the commencement of construction the contractor shall complete daily erosion inspection and a Professional Engineer shall inspect the site at least once per week and at critical times until the project is completed to ensure that the erosion control plans are being followed. He or she shall certify by weekly affidavit to the District Environmental Commission that all erosion controls as specified and approved herein, are in place and properly maintained.

11. In addition to conformance with all erosion control conditions, the permittees shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the permittees from compliance with 10 V.S.A., Chapter 47, Vermont's Water Pollution Control Law.

12. All construction on this project must be completed by October 15, 1996.

13. The Duncan tower shall be removed within two weeks of the completion of the new tower construction.

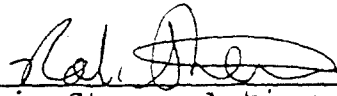
14. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittees have not commenced construction and made substantial progress toward completion within the three year period in accordance with 10 V.S.A., § 6091(b) (Amended June 21, 1994).

15. Pursuant to 10 V.S.A. § 6090(b) (effective June 21, 1994), this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.

Failure to comply with any of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A., Section 6090(b).

Dated at North Springfield, Vermont, on June 22, 1995.

By:


Robin Stern, Acting Chair
District 2 Environmental Commission
Environmental Board

Others participating in this decision:

Thomas C. Spater

Any appeal of this decision must comply with all provisions of 10 V.S.A., §6089 and Environmental Board Rule 40 including the submission of ten copies of the following: notice of appeal, a statement of why the appellant believes the commission was in error, a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, a preliminary list of witnesses and this decision. Decisions on minor applications may be appealed if a hearing was held by the district environmental commission or timely requested by the appellant.

STATE OF VERMONT
DISTRICT 2 ENVIRONMENTAL COMMISSION

RE: U. S. Cellular) Application #2W1012
288 Route 101) Findings of Fact and
Bedford, NH 03110) Conclusions of Law
and) 10 V.S.A., Chapter 151
Clifford C. Duncan) (Act 250)
Diana L. Duncan)
P.O. Box 685)
Wilmington, VT 05363)
and	
Cellular One	
3 Baldwin Avenue	
So. Burlington, VT 05403	

INTRODUCTION TO THE FINDINGS OF FACT:

On April 13, 1995, an application for an Act 250 Permit was filed by U. S. Cellular, Clifford C. and Diana L. Duncan, and Cellular One, for a project generally described as construction of a gravel access road, a 120 foot tower and an equipment building. The project is located off Route 9 in the Town of Wilmington, Vermont.

The tract of land consists of 86 acres. The applicants' legal interests are ownership in fee simple, Clifford and Diana Duncan, and lease agreements with U. S. Cellular and Cellular One.

Decisions must be stated in the form of Findings of Fact and Conclusions of Law. The facts we have relied upon are contained in the documents on file identified as Exhibits 1 through 38 and the evidence received at hearings held on May 4, 1995, and May 31, 1995. A site visit was also held on May 4, 1995. At the end of the hearing, the proceeding was recessed pending submission of additional information and deliberation. The hearing was adjourned on June 6, 1995, upon receipt of all the additional information and review of the record.

Parties to this application are:

- (A) The Applicants by Clifford Duncan, Richard Craig, and LeRoy Womacke.
- (B) The Municipality of Wilmington by Michael Pensom.
- (C) The Wilmington Planning Commission.
- (D) The Municipality of Marlboro.
- (E) The Marlboro Planning Commission.
- (F) The Windham Regional Planning Commission.
- (G) The Agency of Natural Resources.

- (H) Adjoining property owners and the criteria they were allowed to participate on:

The Kingdom Hall Church, represented by Robert Kazakiewich and Paul Brown requested party status under Criteria 1(A) Headwaters, 1(C) Water Conservation, 1(E) Streams, 4 Soil Erosion, 5 Traffic, and 8 Aesthetics. The Kingdom Hall Church was granted party status under Criteria 1(A) Headwaters, 1(E) Streams, 4 Soil Erosion, and 5 Traffic. The request under Criterion 8 was denied as the tower will not be visible from the Kingdom Hall Church property.

Skyline Partners, represented by Dan Purjes and Clyde Reed, are abutting property owners were granted party status under Criterion 8 Aesthetics.

- (I) Persons granted party status on Environmental Board Rule 14B:

Robert Southworth lives across from the project on Route 9 and requested party status under Criteria 1(A) Headwaters, 1(B) Waste Disposal, 1(C) Water Conservation, 1(D) Floodways, 1(E) Streams, 4 Soil Erosion, and 8 Aesthetics. He was granted party status only on Criterion 8, as we did not believe his property interests may be affected under the other requested criteria.

FINDINGS OF FACT:

Prior to taking evidence with regard to the ten Criteria of 10 V.S.A., Section 6086(a), all parties agreed that the applicant through submission of the application material has met the burden of proof with respect to:

1B	Waste Disposal	9A	Impact of Growth
1C	Water Conservation	9B&C	Agricultural Soils
1D	Floodways	9D&E	Earth Resources
1F	Shorelines	9F	Energy Conservation
1G	Wetlands	9G	Private Utilities
2&3	Water Supplies	9H	Costs of Scattered Development
6	Educational Services	9J	Public Utilities
7	Municipal Services	9L	Rural Growth Areas
8A	Wildlife Habitat		

Parties, therefore, waived the issuance of written findings concerning these criteria as the application shall serve as Findings of Fact.

Jurisdiction over this application is conferred by 10 V.S.A., Chapter 151 because the project is commercial on more than one acre in a one acre town.

The following written Findings of Fact are limited to Criteria:

- | | |
|-----------------|--|
| 1 Air Pollution | 5 Traffic |
| 1A Headwaters | 8 Aesthetics |
| 1E Streams | 9K Impact on Public Investments |
| 4 Soil Erosion | 10 Conformance with Local and Regional Plans |

In making the following findings, we have summarized the statutory language of the 10 Criteria of 10 V.S.A., Section 6086(a):

CRITERION 1. THERE WILL BE NO UNDUE WATER OR AIR POLLUTION.

1 AIR POLLUTION:

Radiation emissions will be approximately one watt at the transmitter and 22 watts at the cellular. The nearest house is 1,500 feet away. Exhibit 15.

CRITERION 1(A) HEADWATERS:

1. The project is located in a headwaters area and has been designed to ensure stormwater is properly treated, streams are protected and erosion prevented. Exhibit 3.

CRITERION 1(B) WASTE DISPOSAL:

1. Drainage calculations have been performed and the project will maintain current stormwater runoff patterns. Exhibits 24 and 30.
2. The project access road will be compacted and graveled. Disturbed areas adjacent to the driveway shall be loamed, seeded and mulched. Testimony.
3. The project will use the existing culvert at the Route 9 access, which was constructed by the Vermont Agency of Transportation and is adequate to collect runoff from the project. Testimony.
4. No evidence was provided that the project would result in excessive runoff reaching the Kingdom Hall property.

CRITERION 1(E) STREAMS:

1. The project requires the installation of culverts in intermittent stream channels at four locations. Exhibits 3 and 31.

2. In order to protect the streams the following measures need to be taken:

a. Culvert installation will be done when the streams are dry and between June 1 and October 1. (This condition will eliminate the need to install hay bales and silt fence as described in the plans).

b. The large rip-rap channels (ten feet long) that are proposed downstream of each of the culverts appear to be excessive. Rip-rap will be limited to the immediate area of the culvert outlet.

c. Cutting of vegetation will be kept to the minimum necessary.

d. All disturbed areas will be mulched and seeded as described in the plan.

e. Undisturbed, naturally-vegetated buffer strips will be maintained for a distance of at least 50 feet from all stream banks on the project site except at crossing locations. No cutting or mowing of any vegetation or earth disturbance is permitted within buffer strips.

We will require the applicants follow the recommendations of the District Fisheries Biologist as outlined in Exhibit 23 in order to protect the natural condition of the streams.

CRITERION 4. WILL NOT CAUSE UNREASONABLE SOIL EROSION OR REDUCTION IN THE CAPACITY OF THE LAND TO HOLD WATER:

1. The project involves construction of a gravel driveway and clearing necessary for construction of the tower, an equipment building for U. S. Cellular, an 8 ft. by 8 ft. shed for the Duncans, and an equipment cabinet for Cellular One. The grades adjacent to Route 9 and along the New England power lines are approximately 14% with grades of 25% from the power line to the tower site. Exhibit 3.

2. All disturbed areas will be immediately seeded and mulched. The applicants shall utilize silt fence and hay bales as required to prevent erosion. Exhibits 3 and 23.

3. In order to ensure erosion is not a problem, we will add conditions to the permit requiring daily erosion control inspections by the contractor and weekly erosion control reports (summarizing and evaluating daily erosion prevention activities) by a registered Vermont professional engineer.

CRITERION 5. WILL NOT CAUSE UNREASONABLE CONGESTION OR UNSAFE CONDITIONS WITH RESPECT TO HIGHWAYS OR OTHER MEANS OF TRANSPORTATION:

1. The project will have a maximum of two trips a week. A four wheel drive vehicle will be used except in the winter when snowmobiles will be used to access the site. Testimony.

2. The applicants will create a turnaround at the access road or otherwise ensure there is no backing out of vehicles or snowmobile trailers onto Route 9. Testimony.

3. The Vermont Agency of Transportation has approved the access. Exhibit 25.

We find the project will not create congestion or unsafe conditions with respect to traffic on Route 9.

CRITERION 8. THERE WILL BE NO UNDUE ADVERSE EFFECTS ON AESTHETICS, SCENIC BEAUTY, HISTORIC SITES OR NATURAL AREAS.

1. The project site is a wooded mountain, Mount Olga, with two towers presently visible. Exhibit 3. The existing Duncan tower is 65 feet tall and is visible from Hogback Road, Lake Raponda and other locations. The new tower will replace the Duncan tower and will be 120 feet tall and 44 inches in width. The tower will extend 65 feet above the tree-line. Exhibit 3 and Testimony.

2. Photos depicting the proposed impact are shown on Exhibit 13. It should be noted these photos do not include the dishes which will be present on the tower.

3. The tower will not be lighted. Exhibit 3.

4. The tower will have up to 24 antennae, one corner reflector, and three 6 ft. to 8 ft. parabola dishes. The dishes will be dark gray and the radomes will be either round or oblong and gray. Exhibit 17 and Testimony

5. Clearing at the tower site shall be limited to the fenced area and to cutting of tree branches for guy wires. Exhibit 1.

6. The access will be from Route 9 on an existing driveway and then onto a 20 foot deeded easement. Testimony.

7. Overhead electric line will be brought in along the driveway; minimizing tree cutting. Tree wire will also be used to minimize cutting and to try to preserve a canopy. The access road will not be visible (except the very beginning of the access road at Route 9) from off-site. Testimony.

We find the project will have an adverse impact on the aesthetics and scenic beauty of the area, but the impact is not unduly adverse. The project will not be shocking or offensive to the average person. There is no clear community standard restricting a tower in this location, and most importantly in this case, the applicants have taken steps to mitigate the visual impact. The tower will replace the Duncan tower, which we will require be removed within two weeks of the completion of the new tower construction. The applicants are also using a portion of an existing driveway and will minimize clearing on the access road and at the tower site. We will, however, retain jurisdiction over this criterion and as technology advances in the area of communications we will review how the aesthetic impact can be reduced, for example, utilizing smaller dishes or combining antennae.

CRITERION 9(K) PUBLIC INVESTMENTS:

1. The project is adjacent to the Molly Stark State Park, which has a fire tower available to the public and a communications tower site leased to New England Power Company. Exhibit 3. Although we believe it would be very desirable to combine all users on one tower, either the New England Power tower or the tower proposed in this application, we are persuaded that it is not feasible to do so at this time given the present lease restrictions at the Molly Stark State Park and the particular needs of the New England Power Company (See Exhibits 32-35). We find the proposed project will not unnecessarily or unreasonably endanger the public investment in the Molly Stark State Park, nor materially jeopardize or interfere with the public's use or enjoyment of the facility.

CRITERION 10 THE PROJECT IS IN CONFORMANCE WITH THE LOCAL OR REGIONAL PLAN:

1. The Town of Wilmington characterizes the project as a public utility and has granted a conditional use permit. Exhibit 10.
2. The Windham Regional Plan encourages expansion of communications at existing transmission and necessary stations if such expansion is in the best public interest, and discourages the development of new sites for transmission stations in favor of utilizing existing facilities. Exhibit 14.
3. The applicants actively explored co-location with New England Power Company but limitations of the size of the base area at Molly Stark State Park and transmitting needs of the New England Power Company have made co-location unfeasible at this time. Exhibits 32-35, and Testimony.

We find the project conforms to the intent of the local and regional plans.